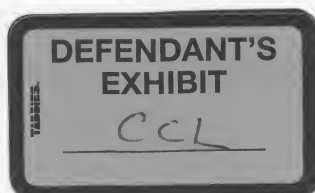




I, MICHAEL EINHORN, declare under penalty of perjury that the following is true and correct:

1. I am an economist by profession. I received a B.A. in economics from Dartmouth College, *summa cum laude*, in 1974, and a Ph.D. in economics from Yale University in 1981.
2. I am now an independent consultant and Research Fellow at Columbia University's Institute for Tele-Information. In the fall, I will be a visiting professor of economics at William Paterson University in Wayne, New Jersey, which is one of three universities in the U.S. that has a music management department. I am also negotiating with appropriate administrators at Columbia to organize and teach an adjunct course on the business of entertainment, music, and sports for the management school next spring.
3. My professional expertise to testify to the issues discussed below derives from previous employment as a Ph.D. economist at Broadcast Music Inc., Rutgers University, Bell Laboratories, and the Antitrust Division of the U.S. Department of Justice.
4. As a professional economist, I shall testify that it is economically rational to identify objectively the incremental benefits and costs of any policy and choose a course that appropriately balances them.
5. Any good or service, including DeCSS, is best viewed as a collection of embedded attributes or enabled functions that enhance user capabilities and, in so doing, improve quality-of-life.
6. The threat of piracy posed by any technology cannot be judged independently of the associated costs to the pirate as well as the alternative technologies at the pirate's disposal.
7. Assertions of the monetary harm resulting from piracy must consider and attempt to quantify based on some empirical research a number of technical and human factors.
8. Copyright owners are now compensated for legal and illegal sales displacement in the U.S. in a number of manners that do not involve restricting or blocking entirely the existing rights of consumers, researchers, and others.
9. Technology policies that require scientists to apply for licenses, restrict researchers from sharing results, and oblige the acceptance of a liquidated damages clause of one million dollars can hinder the efforts of legitimate computer scientists and the advance of their profession.
10. The open source movement in general, and the Linux operating system in specific, enables researchers to work independently on source code to accommodate all application software. It has the potential to transform the home computer to an open



operating system where providers may compete on a level playing field to offer their wares to the public.

11. If priced in open source fashion, a LiViD player will be made freely available to home PCs using any operating system. This could maximize the base of enabled users and promote the sales of DVDs far beyond any other event.

12. Efforts that hinder the development of open source operating systems play into the hands of Microsoft, which illegally restricts competitive access to its closed operating platform.

13. Prof. Fisher's declaration and deposition <sup>are</sup> ~~is~~ sketchy and lacks ~~an~~ awareness of some fundamental technology and copyright institutions.

Dated: July 14, 2000  
New York, New York

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Michael Einhorn